

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS**

NICOLE JEMERY,)
Plaintiff)
v.)
TRANSWORLD SYSTEMS, INC.,)
Defendant)
Case No.:)
COMPLAINT AND DEMAND FOR)
JURY TRIAL)
(Unlawful Debt Collection Practices)

COMPLAINT

NICOLE JEMERY (“Plaintiff”), by her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against TRANSWORLD SYSTEMS, INC. (“Defendant”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant conducts business in the Commonwealth of Massachusetts and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Lowell, Massachusetts.

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

7. Defendant is a national debt collection company with corporate headquarters located at Raritan Plaza II, #A 23, Edison, New Jersey, 08837.

8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6), and contacted Plaintiff in an attempt to collect a consumer debt(s).

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

10. At all relevant times, Defendant was attempting to collect an alleged consumer debt(s) from Plaintiff.

11. Upon information and belief, Defendant was seeking to collect on four (4) different accounts: (1) a Seventh Avenue personal credit card account; (2) a Ginny's personal credit card account; (3) a Sprint cellular telephone account; and

1 an AT&T cellular telephone account.

2 12. The alleged debts at issue arose out of transactions, which were
3 primarily for personal, family, or household purposes.
4

5 13. Beginning in or around October 2013, and continuing through
6 November 2013, Defendant engaged in debt collection activities seeking to collect
7 alleged debts from Plaintiff.
8

9 14. In its attempts to collect a debt, Defendant's collectors repeatedly and
10 continuously contacted Plaintiff on her cellular and work telephones.
11

12 15. Defendant called Plaintiff, on average, one (1) to two (2) times a day,
13 and at various times, in its attempts to collect a debt.
14

15 16. It was annoying, aggravating, and harassing to Plaintiff to be called
16 repeatedly on both her cellular and work telephones.
17

18 17. On numerous occasions, Plaintiff instructed Defendant's collectors to
19 stop calling her on her cellular and work telephones.
20

21 18. Defendant, however, never updated its records to stop calls to
22 Plaintiff's cellular and work telephones.
23

24 19. Rather, Defendant persisted in calling Plaintiff on her cellular and
25 work telephones in its attempts to collect debts, despite knowing its calls were
unwanted.
26

27 20. Further, on at least one occasion, Plaintiff informed Defendant that
28

1 she refused to pay the debts.

2 21. Again, Defendant did not update its records to stop the collection
3 calls to Plaintiff; rather, it continued to call her – knowing that she refused to pay
4 the debts, showing that its intent in calling her continuously and repeatedly was to
5 harass, abuse, and annoy Plaintiff.

6 22. Also, in its communications with Plaintiff, Defendant threatened to
7 get a lien on her home and take her business away if she failed to pay the alleged
8 debts.

9 23. At the time Defendant threatened to get a lien and take Plaintiff's
10 business, it did not intend to take the actions it threatened and legally could not
11 take the threatened actions.

12 24. Defendant's threat caused Plaintiff anxiety.

13 25. To date, Defendant has not pursued legal action against Plaintiff.

14 26. Lastly, within five (5) days of its initial communication with Plaintiff,
15 Defendant failed to send Plaintiff written notice setting forth her rights to dispute
16 the debt(s) and/or seek verification of the debt(s), as well as to request information
17 about the alleged creditor.

18 27. To date, Plaintiff has not received any written correspondence from
19 Defendant.

20 28. Defendant's actions as described herein were made with the intent to

1 harass, upset, deceive, and coerce payment from Plaintiff.

2 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES
3 ACT**

4 29. In its actions to collect a disputed debt, Defendant violated the
5 FDCPA in the following ways:

6 **COUNT I**

- 7 a. A debt collector violates § 1692d of the FDCPA by engaging in
8 conduct the natural consequence of which is to harass, oppress,
9 or abuse any person in connection with the collection of a debt.
10
11 b. A debt collector violates § 1692d(5) of the FDCPA by causing
12 a telephone to ring or engaging any person in telephone
13 conversation repeatedly or continuously with intent to annoy,
14 abuse, or harass any person at the called number.
15
16 c. Here, Defendant violated §§ 1692d and 1692d(5) of the
17 FDCPA when it repeatedly called Plaintiff on her work and
18 cellular telephones, on average, one (1) to two (2) times a day,
19 with the intent to annoy, abuse and harass her; and, by
20 continuing to call Plaintiff after being told that she refuses to
21 pay the debt and to stop calling her.
22
23

24 **COUNT II**

- 25 a. A debt collector violates § 1692e of the FDPCA by using false,

1 deceptive, or misleading representations or means in connection
2 with the collection of any debt.

- 3
- 4 b. A debt collector violates § 1692e(4) of the FDCPA by
5 representing or implicating that nonpayment of any debt will
6 result in the arrest or imprisonment of any person or the seizure,
7 garnishment, attachment, or sale of any property or wages of
8 any person unless such action is lawful and the debt collector or
9 creditor intends to take such action.
- 10
- 11 c. A debt collector violates § 1692e(5) of the FDPCA by
12 threatening to take any action that cannot legally be taken or
13 that is not intended to be taken.
- 14
- 15 d. A debt collector violates § 1692e(10) of the FDPCA by using
16 any false representation or deceptive means to collect or
17 attempt to collect any debt or to obtain information concerning
18 a consumer.
- 19
- 20 e. Here, Defendant violated §§ 1692e, 1692e(4), 1692e(5), and
21 1692e(10) of the FDCPA by using false, deceptive, or
22 misleading representations or means in connection with the
23 collection of a debt, including threatening to get a lien against
24 Plaintiff's house as well as to take her business, when it did not
- 25

1 intend to take those actions and did not have the legal authority
2 to take the actions it threatened.
3

4 **COUNT III**

- 5 a. A debt collector violates § 1692f of the FDCPA by using unfair
6 or unconscionable means to collect or attempt to collect any
7 debt.
8
- 9 b. Here, Defendant violated § 1692f of the FDCPA failing to
10 update its records to stop the calls to Plaintiff's cellular and
11 business telephones after being told to stop calling her as well
12 as that she refused to pay the alleged debt.
13

14 **COUNT IV**

- 15 a. A debt collector violates §1692g(a) of the FDCPA by failing to
16 send to the consumer, within five days after its initial
17 communication with a consumer in connection with the
18 collection of a debt, a written notice containing: (1) the amount
19 of the debt; (2) the name of the creditor to whom the debt is
20 owed; (3) a statement that unless the consumer, within thirty
21 days after receipt of the notice, disputes the validity of the debt,
22 or any portion thereof, the debt will be assumed to be valid by
23 the debt collector; (4) a statement that if the consumer notifies
24 the debt collector; (4) a statement that if the consumer notifies
25

1 the debt collector in writing within the thirty-day period that the
2 debt, or any portion thereof, is disputed, the debt collector will
3 obtain verification of the debt or a copy of a judgment against
4 the consumer and a copy of such verification or judgment will
5 be mailed to the consumer by the debt collector; and (5) a
6 statement that, upon the consumer's written request within the
7 thirty-day period, the debt collector will provide the consumer
8 with the name and address of the original creditor, if different
9 from the current creditor.

12 b. Here, Defendant violated §1692g of the FDCPA by failing to
13 send written notification, within five (5) days after its initial
14 communication with Plaintiff, advising Plaintiff of her rights to
15 dispute the debt or request verification of the debt or providing
16 her with the name of the original creditor and the amount of the
17 debt.

20 WHEREFORE, Plaintiff, NICOLE JEMERY, respectfully prays for a
21 judgment as follows:

22 a. All actual damages suffered pursuant to 15 U.S.C. §
23
24 1692k(a)(1);

- 1 b. Statutory damages of \$1,000.00 for the violation of the FDCPA
2 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
3
- 4 c. All reasonable attorneys' fees, witness fees, court costs and
5 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.
6 § 1693k(a)(3); and
7
- 8 d. Any other relief deemed appropriate by this Honorable Court.
9

10 **DEMAND FOR JURY TRIAL**

11 PLEASE TAKE NOTICE that Plaintiff, NICOLE JEMERY, demands a
12 jury trial in this case.
13

14
15 RESPECTFULLY SUBMITTED,

16 DATE: August 19, 2014

KIMMEL & SILVERMAN, P.C.

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